BRITISH COLUMBIA

Internal Review Procedures

(Reconsideration and Administrative Review Hearings)

May 1, 2004

Licensed Gaming
Access to Gaming Revenue
Horse Racing
Registration

MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL
GAMING POLICY AND ENFORCEMENT BRANCH

PSSG 04040 04/2004

MAY 2004 AMENDMENTS

(CHANGES SINCE THE AUGUST 19, 2002 VERSION)

CLARIFICATIONS

INTRODUCTION	• Clarified the delegation of decision-making authority. • Clarified affected persons or organizations will receive a letter outlining the reasons for the decision. • Clarified that a panel conducts Administrative Review Hearings.
STAGES OF INTERNAL REVIEW	• Clarified the difference between a Reconsideration and an Administrative Review Hearing. • Clarified that only one reconsideration may be requested per application. • Clarified what the panelists can review. • Clarified decisions respecting the denial, non-renewal or cancellation of gaming worker registration due to withdrawal of an offer of employment by the employer, or termination of employment by the employer can not be sent for Reconsideration or to an Administrative Review Hearing.
RECONSIDERATION INFORMATION	• Clarified when a Reconsideration may be requested. • Clarified what new or additional information can be submitted for the Reconsideration process through a new question.
ADMINISTRATIVE REVIEW HEARING INFORMATION	• Clarified requests for an Administrative Review Hearing must be made in writing to the Deputy General Manager of the Gaming Policy and Enforcement Branch. • Clarified when proceedings are audio or video taped, transcribed or otherwise recorded, and how applicants can access those records. • Clarified the appointment and role of the Registrar. • Clarified the General Manager will decide whether to refund the application fee when a Review Hearing is dismissed or otherwise not held. • Clarified that the Registrar must receive the required information no later than five days before the start of the Hearing. • Clarified what new or additional information can be submitted for the Review Hearing process. • Clarified that the Review panel may vary the Review Hearing proceedings in order to ensure fairness to all parties.

REVISIONS

STAGES OF INTERNAL REVIEW	• Decisions respecting the denial, suspension or revocation of an application for Certificate of Affiliation to a bingo hall can no longer be sent for an Administrative Review Hearing.

ADDED REQUIREMENTS

None	

REDUCED REQUIREMENTS

None	

INTERNAL REVIEW PROCESS
(Reconsideration and Administrative Review Hearings)

INTRODUCTION

The General Manager of the Gaming Policy and Enforcement Branch (the Branch) is empowered, under the *Gaming Control Act*, to make certain decisions in respect to gaming in British Columbia. In some cases, the General Manager has delegated decision-making authority to specific staff in the Branch. When Branch staff makes a decision that may be contrary to the interests of a particular party, the affected party may ask for a review.

In all such instances, the affected person or organization will receive a letter outlining the reasons for the decision. At that time, they may request a Reconsideration of the decision by the appropriate Director in the Branch.

If the Reconsideration decision of the Director is unsatisfactory to the party, where permitted, they may request an Administrative Review Hearing. There is a $500.00 application fee for an Administrative Review Hearing. A panel of one or more persons will conduct the hearing and make recommendations to the General Manager. After reviewing the recommendations, the General Manager will either uphold or vary the decision. If the party is successful in having the decision overturned or varied, the $500.00 fee will be returned to the applicant.

In general, these decisions relate to:

- Gaming event licenses;
- Provincial grants to eligible organizations (either through the Direct Access program, or an affiliation with a commercial bingo hall);
- Horse racing licenses, or fines or suspensions imposed on participants in the horse racing industry; or
- Registration of gaming services providers or gaming workers.

STAGES OF INTERNAL REVIEW

What are the stages of Internal Review?
The first stage in the Review process is Reconsideration by the appropriate Director. The second stage in this process is an Administrative Review Hearing, where permitted.

What is the difference between a Reconsideration and an Administrative Review Hearing?
Reconsideration is a comprehensive review of the original staff decision, conducted by the Director responsible for that area of the Branch, to ensure the program policies, guidelines and conditions were applied fairly and the decision properly made. Only one reconsideration may be requested per application.

Should the Director uphold or vary the original staff decision, an individual or organization may, where permitted, request a further review at an Administrative Review Hearing.

An Administrative Review Hearing is an independent review panel adjudicated by one or more persons. Panelists review the original decision, if upheld, or the subsequent decision, if varied by the Director at the Reconsideration stage. After a hearing is held, the panel will provide a written recommendation to the General Manager of the Gaming Policy and Enforcement Branch.

The General Manager makes the final determination to uphold or overturn the original decision.

What decisions can be sent for Reconsideration and, if warranted, to an Administrative Review Hearing?

GAMING EVENT LICENSES

Decision	Reconsideration Process	Administrative Review Hearing
Denial, non-renewal, cancellation, suspension or imposition of conditions on a gaming event license	Yes	Yes
A warning levied against a gaming event licensee	Yes	No
An administrative fine or penalty levied against a gaming event licensee	Yes	Yes

GRANTS TO ELIGIBLE ORGANIZATIONS (DIRECT ACCESS OR CERTIFICATES OF AFFILIATION)

Decision	Reconsideration Process	Administrative Review Hearing
Denial of a grant application (Direct Access)	Yes	No
Level of funding awarded in a grant	Yes	No
Denial, suspension or revocation of an application for Certificate of Affiliation to a bingo hall	Yes	No

HORSE RACING

Decision	Reconsideration Process	Administrative Review Hearing
Denial, non-renewal, cancellation, suspension or imposition of conditions on a horse racing license or registration	Yes	Yes
Fines of $500.00 or less	Yes	No
Fines over $500.00	Yes	Yes
Race day suspensions of 4 days or fewer	Yes	No
Race day suspensions of 5 days or more	Yes	Yes
Calendar day suspensions of 14 days or fewer	Yes	No
Calendar day suspensions of 15 days or more	Yes	Yes

REGISTRATION OF A GAMING SERVICES PROVIDER OR GAMING WORKER

Decision	Reconsideration Process	Administrative Review Hearing
Denial, non-renewal, cancellation, suspension or imposition of conditions on a registration for a gaming services provider or a gaming worker	Yes	Yes
Denial, non-renewal or cancellation of gaming worker registration due to withdrawal of an offer of employment by the employer, or termination of employment by the employer	No	No
A warning levied against a registrant	Yes	No
An administrative fine or penalty levied against a registrant	Yes	Yes

RECONSIDERATION INFORMATION

When to request a Reconsideration?
If you disagree with the written decision of Branch staff with regard to your grant, license or registration application, you may request Reconsideration of that decision. Only one reconsideration may be requested per application.

How to request a Reconsideration?
The request for Reconsideration must be made in writing to the appropriate Director, Gaming Policy and Enforcement Branch. Your request must be received by the Branch within 30 days from the date you were notified of the original decision.

Is there a cost to request a Reconsideration?
There is no charge to request a Reconsideration.

What information should the request for Reconsideration contain?
Your written request must state why the reconsideration is warranted and must clearly state:

- The name, address and telephone number of the party requesting Reconsideration;
- A mailing address, if different from above;
- The decision for which the Reconsideration is being sought (and the date, if known); and
- The date the decision was received.

Can new or additional information be submitted for the Reconsideration process?
Generally speaking, new information will not be accepted, except in special circumstances.

New information would include, for example, a document that introduces brand new information to the application, essentially creating a new or different application. This is generally not permitted for Reconsideration.

Additional, or clarifying information, may be accepted by the Director. This could include documents that support previously submitted information.

New or additional information may be considered at the discretion of the Director.

Which Director reconsiders the decision?
Reconsideration of a decision concerning a gaming event license or a grant to an eligible organization (either through Direct Access or a Certificate of Affiliation) is undertaken by the Director of Licensing and Proceeds Distribution.

Reconsideration of a decision concerning a horse racing license, or a fine or suspension imposed on a participant in the horse racing industry, is undertaken by the Director of Racing.

Reconsideration of a decision concerning the registration of a gaming services provider or gaming worker is undertaken by the Director of Registration.

What does the Director do with this request?
The Director will conduct a thorough review to ensure the program terms, conditions and rules were applied fairly and properly, and will either vary or uphold the original decision.

The written decision of the Director will be sent to the affected organization or individual within 30 days of receiving a written request for Reconsideration.

If the original decision is upheld by the Director following Reconsideration, are there further ways to have the decision reviewed?
In some instances, a decision following Reconsideration may be further reviewed. This involves an Administrative Review Hearing, where an independent Review panel (adjudicated by one or more persons) hears evidence and provides a written recommendation to the General Manager, Gaming Policy and Enforcement Branch. The General Manager makes the final decision to uphold or overturn the original decision.

The only decisions that may be heard at an Administrative Review Hearing, as described in the tables above, are those concerning:

- Gaming event licenses;
- Administrative fines or penalties levied against a gaming event licensee;
- Horse Racing licenses;
- Certain fines or penalties levied against participants in the horse racing industry;
- Registrations of gaming services providers or gaming workers; and
- Administrative fines or penalties levied against a registrant.

All decisions of the Branch are subject to Judicial Review, should the affected party wish to have the decision reviewed by the Courts.

ADMINISTRATIVE REVIEW HEARING INFORMATION

When to request an Administrative Review Hearing?

- If a Director has made a Reconsideration decision that you disagree with;
- It was a Reconsideration of a gaming event license, a registration issue, a horse racing registration or license, or specific fines or penalties (as outlined in the tables above), and;
- You have received written notification of this decision from the Director.

If the above criteria have been met, you may wish to begin the Administrative Review Hearing process.

How to request an Administrative Review Hearing?
The request for an Administrative Review Hearing must be made in writing to the Deputy General Manager, Gaming Policy and Enforcement Branch. Your request must be received within 30 days of when you were notified of the reconsidered decision.

What should your request for an Administrative Review Hearing include?
Your request must clearly state why the Review Hearing is warranted.

Your written request must also include the following information:
- The name, address and telephone number of the party requesting the Hearing;
- A mailing address, if different from above;
- The action, order, or decision for which the Hearing is being sought (and the date, if known); and
- The date when the action, order, or decision was received.

Is there a cost to request an Administrative Review Hearing?
An application fee of $500.00 is required in order for an Administrative Review Hearing to proceed. This fee is refunded if an original decision, fine or penalty is overturned or varied.

Who conducts the Review Hearing?
A Review panel consists of one or more members appointed by the General Manager. Panel members are independent of the Branch, and have no prior knowledge of the specific issues pertaining to the Review Hearing. A Registrar will be appointed to coordinate the hearing and ensure information is shared with all parties.

What is the role of the Registrar?
The Registrar is responsible for scheduling hearings, ensuring all relevant documents and materials are received and distributed to appropriate parties, and creating the official hearing record. The Registrar may place restrictions on the introduction of new information, and works closely with the Review panel to ensure established policies and procedures are followed.

The Registrar will assist with any inquiries regarding the Review Hearing process.

How are you notified of the Hearing?
Applicants will be given reasonable notice of the Administrative Review Hearing. Hearings will be scheduled at the earliest opportunity, upon receipt of written request.

The notice of Review Hearing includes:
- The time, date and place of the Review Hearing;
- The action, order, or decision concerned; and
- Reference to the Review Hearing procedural rules.

Who may be a party to a Review Hearing?
Any person or party considered appropriate by the General Manager or the Administrative Review Hearing panel may be a party to a hearing.

At the Review Hearing, a party may:
- Present arguments and submissions;
- Be represented by counsel or an agent;
- Call and examine witnesses; or
- Cross-examine witnesses.

The Review Hearing may be adjourned from time to time as required, and as directed by the panel.

Can an Administrative Review Hearing be held in-camera (privately)?
Yes, but only when the Review panel considers the subject matter sensitive enough to warrant a private hearing. The decision of the Review panel will be public record and evidence presented may become part of that record.

Will the proceedings be audio or video taped, transcribed, or otherwise recorded?
The Branch is not obligated to record the proceedings of a Reconsideration or an Administrative Review Hearing, but in some cases may choose to do so. The applicant may request that an official record be made at his or her own cost. The Registrar must be given notice of such a request in advance of the hearing date. The final decision as to the recording of the proceedings will be made by the panel Chair.

What happens if a party to a Review Hearing does not appear?
The Review panel may proceed in their absence. The applicant may not be entitled to further notice of the proceedings or another Review Hearing. The $500.00 application fee may not be refunded.

When is a Review Hearing not held?
If all parties to the Review Hearing agree, the Hearing may be dismissed, adjourned, withdrawn or conducted in a modified form at the discretion of the panel. The application fee may not be refunded. The General Manager will decide whether to refund the application fee.

What do I need to prepare for a Review Hearing?
At the request of the Review Panel, both the applicant and Branch staff are required to submit the following information:

- A list of attending representatives;
- The documents intended to be relied upon in the Hearing; and
- An outline of intended submissions.

This information must be received by the Registrar **no later than five days** before the start of the Hearing and will be shared with the Review panel and all parties.

Can new or additional information be submitted for the Review Hearing process?
Generally speaking, new information will not be accepted, except in special circumstances.

New information would include, for example, a document that introduces brand new information to the application, essentially creating a new or different application.

Additional, or clarifying information, may be accepted. This could include documents that support previously submitted information.

New or additional information will be considered at the discretion of the panel Chair.

Order of proceedings
Review Hearings will generally proceed as follows (the order may vary as directed by the Review panel):

- Introductions and an opening statement by the Review panel Chair to clarify issues and procedures;
- Presentation of the Branch staff position;
- Questions by the applicant and Review panel with regard to the Branch staff presentation;
- Presentation of applicant position;
- Questions by the Branch staff and Review panel with regard to the presentation of the applicant;
- Summation of evidence and argument of the Branch staff;
- Summation of evidence and argument of the applicant;
- Closing remarks, Review panel Chair.

The Review panel may ask questions and examine or cross-examine witnesses during the hearing, and may allow the parties an opportunity to reply to other parties' arguments. The Review panel may vary these procedures in order to ensure fairness to all parties concerned.

THE FINAL DECISION

How are parties informed of the decision?
The Review panel will forward a written recommendation to the General Manager.

The recommendation of the Review panel and the final decision of the General Manager will be mailed or delivered to all parties to the Review Hearing within 60 days.

If the original decision is upheld following an Administrative Review Hearing, are there further ways to have the decision reviewed?
Judicial Review of a decision may be pursued.

Questions about the Internal Review process (including Reconsideration and Administrative Review Hearings) may be directed to the Gaming Policy and Enforcement Branch.

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910 Government Street, 3rd Floor
PO Box 9311 STN PROV GOVT
Victoria BC V8W 9N1

Telephone: 250 387-0757 (Victoria)
Facsimile: 250 356-8149 (Victoria)

Or e-mail: Gaming.Branch@gems1.gov.bc.ca

Enquiry BC (toll-free access)

Dial 1-800-663-7867 and ask to be connected directly to 250 387-0757.
Lower Mainland residents please call 604 660-2421 and ask to be connected directly to 250 387-0757.